

The Limits of Urgency in Post-Conflict Commercial Law Reform

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Summary

The urgent need for progress in post-conflict environments might seem to indicate the need to employ an urgent schedule for commercial legal reform, by-passing normal participatory processes in order to get much-needed laws on the books. Proponents of the urgent model point to legislative changes that have opened investment, even though using approaches that are not recommended in more normal settings. Those successes, however, are exceptional, with very limited applicability to general legislative reform efforts.

Despite the emergency atmosphere of post-conflict work, commercial law reform projects should seldom adopt emergency approaches, but should engage in measured, participatory activities that will build ownership and increase the likelihood of acceptance and implementation of the needed reforms. Use of an urgent approach can undermine investor confidence and have serious negative economic and political consequences.

Specifically, all commercial legislative work should be designed and prioritized based on actual demand by actual investors (potential and existing) and then approached through a participatory process that includes significant local stakeholder input. In Islamic countries, this should include analysis of *shari'ah* compliance (informed by human right concerns). Once legislation is enacted – especially if enacted on an urgent basis – program support should shift resources to long-term public education, coupled with legislative amendments that may be needed, as implementation exposes any weaknesses or mistakes. An urgent approach should be permitted only in reasoned, justified, exceptional cases.

The goal of technical assistance in commercial law is to improve the investment climate through improved rules and *improved processes* for making those rules so that the rules will be implemented. Such processes move more slowly by nature in producing legislation, but without them there is no basis for implementation. As the ultimate goal is implementation, greater attention should be given to processes that achieve implementation, not merely “laws on paper.”

This paper sets forth a suggested road ahead for commercial law reform. The background section sets forth conditions that give rise to urgent action, but suggests that the urgent approach is not a viable model for general use. The next section provides practical guidelines for moving forward with new and existing legislation, including

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guidelines for determination of priorities and time pressures. The final section explains why this new approach is needed in light of potential damage that could be caused through use of an urgency paradigm.

Background: Afghanistan as a Case Study

When donors arrived in Afghanistan following the collapse of the Taliban regime, certain fundamental aspects of the commercial legal system were missing. Existing laws did not sufficiently support rational customs regulation and enforcement, expanded banking services, or even efficient court processes, among other issues. Recognizing this, the Berlin Conference set an aggressive timetable for the adoption of legislation believed to be key to creating an attractive investment climate.

The donor community quickly launched needed programs of technical assistance, using an accelerated schedule for legislative drafting. Prior to constitution of the legislature, these drafts could be adopted rapidly by presidential decree. Today, the presidential decree can only be used on an emergency basis when the legislature is not in session. Presumably, this should lead to involvement of the legislature in analyzing and passing the law. Instead, it has led to questionable use of the presidential decree to pass non-emergency legislation (such as the company law) on an emergency basis during legislative recess. Experience elsewhere, such as Romania, suggests that overuse of emergency decrees can severely harm a nascent democracy, especially when it forms a habit of bypassing democratic checks on executive power.

In all OECD countries, laws are generally passed only after years of analysis, discussion, public participation, and refinement. Even a relatively simple legislative amendment can take years to go from proposal to passage. On average, most laws take at least 2-5 years, with major reforms sometimes taking more than 10 years in normal circumstances. The apparent “inefficiencies” arise from a commitment to consensus, which provides the basis for implementation.

Even in transition settings, with incentives such as a bilateral trade agreement or WTO accession in the background, legislative drafting programs have typically been given at least 3-5 years to prepare texts, identify stakeholder groups and educate government about both the need for reform and the most desirable models before presenting drafts for ratification by the legislature. This approach has been used in Vietnam with spectacular success and in Indonesia with considerable success.

Afghanistan does not have normal or even transition circumstances. In its post-devastation state, the country clearly needed an accelerated process to get certain legislation in place to support economic growth. This need has been met with a great deal of urgently adopted legislation. The banking law (which was passed in English with no translation into local, official languages at the time) did not follow best practices but did result in an important expansion of banking services. The customs code was adopted rapidly to fill a vacuum so that customs agents had something to enforce. Some of the other legislation has also had a positive impact.

Yet not all of the rapid laws have been beneficial, nor has all of the acceleration been justified or even needed. For example, the recently passed “emergency” company law sat on a shelf for three years with no interim vetting or discussion process. Expert reviewers believe that the “improved” law raises as many questions as it settles, questions that might have been settled using a deliberative process. The ongoing use of accelerated, low-participation drafting and adoption procedures is increasingly having negative, unintended but avoidable consequences for the investment climate and the stability of Afghanistan.

Many similar problems have been seen in other post-conflict environments. Bosnia and Herzegovina, for example, underwent a number of rapid changes in order to establish peace, including a national structure that is universally disliked, but accepted as a lesser evil than the war it helped displace. In that situation, urgency was needed; for commercial law reforms following peace, however, rapid lawmaking has not been effective, but deliberative processes have been.

Beyond Urgency: Effective Lawmaking

There is a popular misconception that mere passage of laws produces the changed behavior that the law is intended to regulate. From this perspective, drafting and passing a law in six months is far better than taking several years to do the same thing. But this flawed reasoning fails to understand that investors do not invest based on whether a law exists, but on whether the law is implemented, and the system of implementation provides for transparency, predictability, and security. This is just as true for domestic investors as foreigners.

When laws can suddenly appear with little or no warning or input, investors perceive higher risks, and these risks affect their business plans and investment decisions. The legal systems of post-conflict countries are too often high risk, with unexpected decrees and regulations suddenly appearing, sometimes with no warning to the stakeholders most affected by the changes. Where there is donor assistance, the presence of highly qualified foreign experts does not necessarily lead to sufficient participation by interested stakeholders in the prioritization and preparation of laws. To the contrary, foreign consultants often work on an accelerated timetable that provides for little if any meaningful input. As a result, there is often a great deal of resentment and distrust of the legal system by both local and foreign investors, as well as by government officials. In Afghanistan, for example, there is open dissatisfaction among the business community with the lawmaking process.

With a few exceptions,² the laws passed in post-conflict environments do not lead to increased investment, in great part because the security and political instability are keeping away investment no matter how good the laws may be. Investors (whether foreign or domestic) look for a stable *system* that permits enforcement of commercial and

² Mobile phone investment has proven itself resilient to hostile climates. Some extractive endeavors also succeed when backed by national or private security forces.

other laws. They also look for locations where their employees and equipment will be safe from crime and violence. Re-establishing physical security in post-conflict settings takes time: this means that there is time to move more deliberately, establishing democratic, participatory processes that enhance the investment environment as an integrated part of the technical assistance in policy and lawmaking. This includes participatory prioritization so that investors feel that the reform agenda is actually related to their needs and priorities.

Specifically, all legislative and policy assistance programs for the commercial sector³ in post-conflict settings should incorporate the following programmatic components:

- **Demand Based.** The starting point for invigorating the economy is to identify the barriers to economic activity and remove them. Therefore, the commercial and regulatory agenda should be based first and foremost on careful analysis of the perceived needs of the business and investment community, on both a general and sector-specific basis. Local chambers of commerce often prepare reform agendas, based on credible surveys of the business community, but often their members feel their agenda is not being addressed by existing technical assistance projects. Such agendas provide an excellent basis for additional analysis at no project expense.
- **Investor Priorities.** If investors are not asking for it, don't do it - or at least not yet. In Afghanistan, investors did not ask for the company law just passed on an emergency basis, nor for the preliminary draft of a bankruptcy law that was almost submitted for emergency passage. They will be needed, but are low priority: companies and banks are already investing without these laws. On the other hand, the Afghan banking law responded directly to the demands of investors who provided input on what was needed for them to open banks or expand operations. While imperfectly executed, it has been effective and mistakes made in urgent action have been corrected. The law worked because it responded to investor priorities.
- **National Scope.** All legislative drafts should be subject to a national vetting process among affected stakeholders, including foreign investors where relevant. Many post-conflict countries suffer from a strong public perception that laws are capitol-based based and need not be respected in the hinterlands. Or, even worse, the tensions that led to war were fueled in part by conflicts between the center and the rest. Either way, such resentments create instability. Failure to use a national process undermines efforts to rebuild national stability. National participation in the process is essential for identifying and responding to national needs and priorities, and thus to building a basis for implementation on a national level.
- **High Participation.** Every effort should be made to include as many stakeholder groups as possible in the drafting process, including those who are expected to oppose the law. Indeed, opponents are particularly important, as they can often veto the law with their actions after it is enacted when they feel that they have not been heard in the process. Participation will require assistance to those who need to participate. Most literate people, including many legal professionals, have no idea how to interpret a draft law. For the uneducated, participation is even more difficult.

³ My expertise is in commercial law. I suggest that similar considerations be taken on non-commercial projects, with appropriate variations for those fields.

Consequently, it is important to hold public meetings where the law and its implications can be explained and verbal feedback can be captured.

- **Tight Focus.** It is not always necessary to rewrite an entire code, especially when a few amendments result in most of the impact. If urgency is necessary, it is much faster to change a few high impact clauses now, with more expansive refinements later. Another benefit to this approach is that sometimes the existing codes in an Islamic republic were determined to be *shari'ah* compliant when adopted, and this respect carries forward, even if the codes may be in need of revision for today's realities. Amendments to the codes are thus perceived as part of the compliant code, and more trustworthy. Entirely new codes are highly suspect, especially because they are drafted by foreigners with little input from trusted local experts.
- **Relevant Models.** International standards in commercial law have converged, to a great extent, on some standard models.⁴ It is not necessary to reinvent the wheel in the interest of local input. Instead, countries should seek the model that is (1) most compatible with their own system and (2) has the greatest capacity for growth. If these two goals conflict, then the emphasis should be on growth: compatibility can be worked out. Harmonization also provides a useful tool for training local experts in comparative legal concepts and their economic impact.
- **Training.** Every legal reform is an opportunity for training at multiple levels. First, it provides outstanding possibilities for training existing and new local drafters in the art and content of drafting new laws. All teams should include younger generation professionals together with any older experts or specialists. Second, all programs should produce both training materials and curriculum development for use in continuing legal education and primary legal education. Without knowledge of the law, all efforts are futile, and intensive legal reform programs produce dozens (if not hundreds) of laws that are poorly known at best. Third, all projects would do well to have their expatriate specialists lecture, train or teach on a regular basis. They are international experts who can pass on their expertise a very low marginal cost. Fourth, public education should be a major part of every legal reform project. Until the public knows they have new rights, they have no new rights.
- **Cultural Compliance** (within limits). For Islamic countries, a law must be *shari'ah* compliant to be legitimate (as further discussed below). Many Islamic countries have already established compliance for most modern commercial laws and have effectively dealt with concerns over issues such as interest rates (by using fees and equity investment instead) and other non-Islamic practices. Drafters should seek to draw on compliant models where possible, and should work closely with the local *shari'ah* authorities (such as the *Taqnin* in Afghanistan) to improve their analytical capacity and their understanding of new commercial concepts. Otherwise, they may simply reverse many of the supposed gains once foreign pressure has been removed.⁵ Care should be taken, however, to avoid reinforcing culturally acceptable

⁴ UNCITRAL, the European Bank for Reconstruction and Development, The World Bank Group and others have established model laws and principles for bankruptcy, secured transactions, corporate governance and a plethora of important commercial laws.

⁵ This is not uncommon even in stable environments. When a donor project in Macedonia avoided dealing with a local (but very unhelpful) legal authority, the authority waited for the expatriates to leave and used his considerable influence to void the law prepared by the expatriates.

discrimination and rights violations (such as economic subjugation of women). For example, most members of the Organization of Islamic Countries are signatories to the UN Convention on the Elimination of all forms of Discrimination Against Women (CEDAW), so that CEDAW can and should be added to the analytical filter for new laws. There are limits to cultural sensitivity.

- Parliamentary Involvement. Once there is a functional legislature, all policy reform and legislative drafting should include parliamentary counterparts as well as appropriate ministerial stakeholders.

Clearly, this approach will take more time and money at the drafting stage. But drafting is not the goal – changed socio-economic behavior is the goal, and that comes with consensus building, something which takes time. A participatory approach builds consensus; it also leaves in place a body of local experts and organizations that are better able to analyze, draft and implement laws. By building consensus, the participatory approach increases stability while creating a basis for implementation. Implementation is not based on the existence of law, but on *agreement* about the content of the law. Without consensus, there is no basis for agreement and therefore no basis for enforcement. Participation with the commercial sector has further benefit in that it brings the business community into the policy-making feedback loop in a way that reduces the risks of investment and improves long-term commercial viability.

Dealing with Urgency

There are two sources of urgency in most post-conflict countries: political and economic. Politically urgent lawmaking refers to those laws that must be passed as part of conditionalities set at international conferences or for donor loans. Economic urgency exists as a function of the devastated economy, but implicates laws when potential investments are lost or delayed because of legal barriers. Both require a different approach than the comprehensive one set forth above.

Laws mandated by political decisions have the potential of becoming ineffective except as “checking the box” exercises that permit grants and loans to flow. Given the level of funds involved, these exercises are not insignificant. The lawmaking can be, however. In cases of political urgency, many of the deliberative events must be moved until *after* enactment; they cannot simply be eliminated. In most cases, expediency will lead to avoidable mistakes that will need to be corrected over time. Such laws should therefore be recognized as “interim” laws: passed now with an understanding that they will be explained and corrected later. The project must then accompany the new legislation and take it through the proper stakeholder vetting process, carefully noting any changes that may be needed as implementation takes place. In other words, passage of the law is not the end of the project, but only a midpoint.

Economic growth is clearly an urgent need. Laws that stand in the way of economic growth (whether by their absence or their presence) should be highest priority. As noted, the banking law was urgently needed in Afghanistan to spur financial services and access to credit. It responded to actual demand by actual investors who actually invested after

their demands were met. Notably, the banking law did not avoid *shari'ah* compliance, but complied even in the urgent timeframe.

No laws should be considered urgent unless demanded by identified investors who can reasonably be expected to initiate or increase investment once the law is passed. In this case, the law must be adequate to their needs, and so it must be vetted with them. Investors don't go in because experts feel that the climate is safe for them; they invest only when they feel it is safe, and they define the terms of that safety. Such laws, however, should be subject at the earliest possible moment to assessment according to local customs such as *shari'ah*. Ignoring *shari'ah* can place the existing regime at risk.

Urgency versus Legitimacy: The Dangers of Ignoring Process

Laws are tools for shaping socio-economic behavior to achieve desired policy goals. To function effectively, they must be part of a system that incorporates sufficient consensus to permit implementation. *Without consensus, implementation is not possible.* Implementation arises from agreement; without agreement, force must be employed to compel compliance. Force can be a legitimate means to sanction the recalcitrant, but only when the underlying law is considered legitimate. Accelerated law-making rarely achieves legitimacy.

The accelerated approach tends to be promoted as a necessity for creating a viable investment climate as quickly as possible. Unfortunately, investors generally care much more about stability and predictability in the legal system than about the laws themselves. In an unstable system, laws can change without warning, undermining investment assumptions and destroying viability. For example, a rapidly adopted company law was completely revoked in Macedonia; in Armenia, investors once noted that they could personally get laws passed secretly, but so could their competitors. In a stable system, laws are changed in a manner that permits investors to track, comment upon, influence, and adjust their assumptions in a timely manner. The urgency paradigm currently employed in many settings is an unstable approach that has been shown to compromise quality, reliability, and legitimacy of the laws and the legal system.

Quality. To the extent that urgency is legitimate, it must be married to quality: doing a bad job quickly is unsupportable on any basis. In some countries, there is widespread agreement in the business and expatriate community that the basic quality of the laws is compromised by the emergency approach. The supposed attraction of having “investor-friendly” legal regimes is thereby not being achieved. Too often, a the range of new laws may vary greatly in quality, with some clearly substandard and in immediate need of significant revision. This internal quality problem is exacerbated by “external” issues, such as a failure of new laws to be consistent with the existing legal system, a problem frequently seen when common law and civil law approaches are cobbled together rapidly. Translations can also be a significant problem. In Afghanistan, official law – in Dari or Pashto – is sometimes incomprehensible, even when the unofficial English is clear.

This problem is not simply the fault of donors. Local experts from ministries, the legislature or law faculties are often involved to some extent in reviewing drafts of foreign experts, or producing their own laws without outside assistance. Their changes are not always beneficial, in part because they may not understand the underlying legal concepts or what the law is intended to accomplish. In a deliberative process, there would be time to explain, educate, and thus elevate the participants and their participation. But the deliberative process must permit and elicit such participation.

Reliability. Because of quality issues, many laws may not be reliable and, even worse, may be subject to unpredictable application. The uncertainty created thus increases risks to investors who are relying on the laws to set the parameters for their investment decisions. Frequently, post-conflict states lack a reliable judicial or administrative system that can interpret these laws or enforce them in a consistent, trustworthy manner. Without political intervention, an investor cannot be certain that the law will be applied at all, much less properly. While this political backing may exist for some investors or some sectors of the economy (such as banking), the overall investment environment – for foreign or domestic investors – is high risk. Urgent lawmaking approach is one of the risk factors.

Legitimacy. Laws are considered legitimate when they are perceived to adequately employ a sufficient mixture of three factors: process, substance, and representation. If the process is considered invalid, the law produced may be considered invalid. Even if the process is appropriate (accepted by the stakeholders), the substance of the law must be acceptable and appropriate, or it is illegitimate. In some cases, process and substance can be compromised somewhat, as long as those creating the laws are considered legitimate representatives of the relevant stakeholders. Some legislative projects fail on all three factors.

Process. There is generally widespread dissatisfaction among public and private sector representatives with an urgent process. They tend to feel that they and their interests have been ignored, and they are not satisfied that experts may be working on their behalf. For example, numerous stakeholders in Afghanistan from the business, academic, and legal community have openly complained that they were not consulted regarding changes to the commercial code. In Albania, drafters of a second bankruptcy law did not even consult with the drafter of the first law, who was unaware of amendments being entertained because of political urgency. In these situations, stakeholders express little if any ownership in the laws. It has been repeatedly shown that without ownership, stakeholders feel a diminished sense of obligation to comply with new laws. The consensus that is normally achieved prior to adoption can be constructed (albeit less extensively) through public education and involvement post adoption, but this requires substantial public outreach, something normally not budgeted for in legal reform projects.

Substance. As already noted, stakeholders frequently find urgently drafted laws to be deficient in content, whether in the original version or only in translation. In some countries, even the expatriate experts involved in the reforms – including drafters – have

expressly complained that quality is being sacrificed to urgency. The problems increase where new concepts are introduced: Bosnia attempted to jump start desperately needed court reforms with dramatic interventions, but successful change has taken ten years of intense efforts, in part due to the weaving of common law and civil law characteristics into the system. The question of how existing jurisprudence can be modernized in order to interact with the new, hastily-drafted secular commercial law has been left largely unaddressed.

Representation. Most nations are sensitive to foreign influence; post-conflict countries may be particularly so. Much of the legal reform agenda is perceived, perhaps not without accuracy, as Western laws being forced upon the defeated or disabled nation through use of various incentives and sanctions wielded by foreign governments and foreign institutions. The fact that the executive of the post-conflict state agrees to promote the laws, or that an official body has rapidly given its official approval, does not mitigate the overall impression of imposition. Indeed, such approval can be seen as pandering to foreign interests and undermine the popular legitimacy of the executive.

There is an additional problem in representation. A number of post-conflicts states with large Muslim populations may choose or have chosen to become Islamic Republics. Although many locals and most Westerners would prefer a secular road akin to the Turkish or Azeri models, popular choice often leads another way. (We should not forget that the Iranian revolution in the 1970s was a highly popular religious reaction to perceived debasement of Islamic values by a Western-oriented executive out of touch with the masses.) Consequently, the constitution and the general belief system of a large percentage of the population may require that all laws be in harmony with (if not defined by) *shari'ah*. As Lippman states, “. . . *sharia* is Islam. Muslims live according to its principles, and if the new forms of government and legal authority violate it, they do so at their political peril. In a Muslim country, the balance of interests between ruler and ruled must take into account the requirements of religion, as embodied in *sharia*.”⁶

Even so, it is important to note that not all that passes for *shari'ah* is *shari'ah*. At the village level, there is frequently a confusion and conflation between customary law and the dictates of the Koran. Many practices, including many restrictions on the rights of women, are not consistent with Islamic teaching and tradition. At the very least, there may be different Islamic interpretations that would permit greater economic and individual liberties. Consequently, carefully guided attention to principles of more liberal Islamic regimes may even provide a basis for some liberalization through *shari'ah* compliance.

There is less concern in commercial legislation. For the most part, *shari'ah* addresses issues of family law, inheritance, and basic relationships. Moreover, the Koran and *Hadith* simply did not address many of the complex issues covered in today's technological world: there is no pronouncement about utilities regulation, for example.

⁶ Lippman, Thomas W., *Understanding Islam: An Introduction to the Muslim World*. Revised 2nd Edition; Meridian Books, New York, 1995, p. 95

As a consequence, general principles are applied. In such cases, *shari'ah* analysis primarily looks for issues of fairness and unjust enrichment, values that are respected worldwide. Although caution should be taken not to develop laws that expressly restrict women's banking, for example, there is little reason for non-Muslims to be concerned over religious restrictions in the commercial legal system.

Recent work in Afghanistan has taken two approaches. On the one hand, some of the laws introduced of late have been adequately and acceptably reviewed by the *Taqnin* and other religious authorities and have been found to be *shari'ah* compliant. The law on foreign direct investment is a good example. On the other hand, there is widespread perception that *shari'ah* is being given short shrift for many new laws, so that the adequacy of compliance is highly suspect. There are great concerns among many that the laws are not only foreign, but that they are also un-Islamic. In an Islamic state, a ruler who violates *shari'ah* loses all vestiges of legitimacy and can be perceived as a threat to the faith. And "Islam teaches believers to take action when they feel the faith is threatened." (Lippman, 178) Failure to recognize and work within such cultural parameters may actively and thoroughly undermine the legitimacy and authority of nascent governments, the existence of which is already fragile.

In conclusion, an approach to lawmaking that by-passes cultural and religious concerns produces tenuous legitimacy and thus is unlikely to achieve expected implementation or to attract much investment. In addition, it may imperil well structured initiatives.

Implications for the Future Work

Many post-conflict programs have employed the urgency model, understandably, but often beyond its appropriate limits. Where that is underway, a mid-course correction is needed if the efforts are to reach the desired destination. In practical terms, this has two principle implications:

1. Correct the basic approach. Many of the laws that are urgently pursued must ultimately rely on court enforcement. Post-conflict courts are normally in disarray, and effective court reforms generally require at least five years in stable countries and considerably more in unstable environments. Given that the courts will therefore not be functioning effectively for several years, the perceived urgency is ephemeral. There is time to institute deliberative processes that engage the stakeholders effectively to ensure that whatever is passed is accepted as their own. In addition, this same reconstruction timeframe suggests that projects should also focus on building local institutional capacity through slow, methodical legislative processes that include stakeholder input from the private sector, NGOs, local experts, foreign experts, and government officials. It is also important to reach out to legal scholars in the universities in a systematic way to ensure that they become familiar and comfortable with the content of the new legislation and are in turn able to reformulate curriculum and teach it authoritatively to the next generation of judges and lawyers. There may also an opportunity to build a more effective capacity in Islamic countries for *shari'ah* analysis based on systems employed in numerous Islamic states. For the most part, *shari'ah* poses no significant obstacles to commercial

legislation and should not be avoided in the supposed interests of “international standards.” Indonesia and Malaysia have different but effective approaches to ensuring that commercial law is both *shari’ah* compliant and economically legitimate. Indeed, a number of important economic practices – such as leasing – are regularly used in Islamic countries because they comport with Islamic principles. These should be at the forefront of reform priorities.

Some laws will still need to be hurried through. This is inescapable in the political and economic environment of rebuilding countries. But these should be carefully chosen and prioritized based on a real, identifiable demand for the laws by actual investors who will actually invest only after the law is passed. For example, the banking law satisfied the needs of the bankers in Afghanistan and brought them into the country. There was a demand that was met on an immediate basis by this law. The mining industry may need something similar before investors risk their multi-millions in extraction. If there is no such discernable need, the laws should be placed on a slower track. Bankruptcy, secured transactions, futures and asset-backed securities, and even company law should be taken slowly. They are important to the overall economic regime, but will not matter much before there is electricity, safety and military stability; the investors who depend on such things will not be attracted by the mere fact that laws have been passed. There is time.

2. Correct the mistakes. Whether avoidable or not, many mistakes are often made during first rounds of legal reform, especially when done rapidly. These can be fixed. Local ownership of expatriate drafts can and should be built after the fact. Yes, it is better to spend several years doing this before a law is adopted, but once that chance is missed, there’s plenty of time afterward to correct the mistakes. This process, of course, will lead to recognition of drafting errors, substantive problems, and other issues needing correction through amendment. This is normal – all laws are eventually amended, but legal reform projects seldom teach those skills because they move on to new laws without ensuring implementation of the most recently completed drafts. Expatriate projects responsible for presenting new drafts should include substantial funding for working on implementation issues related to laws that have already been passed. This should probably include explicit admissions that the new law was passed because of urgent need, but now needs more careful consideration to make sure that any problems arising from that can now be corrected.

Final Note

The goal of legal reform is not new laws, but changed socio-economic behavior. New laws are one of many facets of policy development and reform. The process by which laws are created and adopted has critical implications for implementation, and also for the perceived legitimacy of those who are ultimately responsible for their passage. Lawmaking can be used to rebuild social stability in post-conflict societies while rebuilding the economy over the long term. If done badly, it can destabilize governments, inhibit investment, and undermine the very goals for which it was designed. This knowledge must inform our project design and implementation.